

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ALBERT MCLEOD, III,

Petitioner,

CASE NO. 2:07-cv-1312

JUDGE WATSON

MAGISTRATE JUDGE KEMP

v.

CARL ANDERSON, Warden,

Respondent.

ORDER

On January 22, 2009, the Magistrate Judge issued a *Order and Report and Recommendation* denying petitioner's request for discovery and recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed. Petitioner has requested an extension of time to file objections to those recommendations. Doc. No. 14. His request for an extension of time to file objections is **GRANTED**. Petitioner may file objections to the Magistrate Judge's *Order and Report and Recommendation* on or before March 2, 2009.

Petitioner has also requested the appointment of counsel because he is indigent and has only an eighth grade education. However,

[t]here is no constitutional right to counsel in habeas proceedings. *Cobas v. Burgess*, 306 F.3d 441, 444 (6th Cir. 2002). "Habeas corpus is an extraordinary remedy for unusual cases" and the appointment of counsel is within the discretion of the Court and required only if, given the difficulty of the case and petitioner's ability, the petitioner could not obtain justice without an attorney, he could not obtain a lawyer on his own, and he would have a reasonable chance of winning with the assistance of counsel. *See Thirkield v. Pitcher*, 199 F.Supp.2d 637, 653 (E.D.Mich. 2002); *Mira v. Marshall*, 806 F.2d 636, 638 (6th

Cir.1986).

*Johnson v. Warren*, 344 F.Supp.2d 1081, 1088 (E.D. Michigan 2004). The record in this case fails to reflect complexity or that justice otherwise requires the appointment of counsel to assist petitioner in filing objections to the Magistrate Judge's *Order and Report and Recommendation*. Petitioner's request for the appointment of counsel therefore is **DENIED**.

Finally, petitioner requests to be advised of the reasons for the Magistrate Judge's order denying his discovery request and recommending dismissal of his habeas corpus petition. The basis for the Magistrate Judge's order and recommendation of dismissal are contained in the Magistrate Judge's *Order and Report and Recommendation*, which already has been provided to the petitioner.

Therefore, petitioner's request for an extension of time to file objections is **GRANTED**. Petitioner may file his objections on or before March 2, 2009. His requests for the appointment of counsel and for an explanation for the Magistrate Judge's order denying his discovery request and recommending dismissal of his habeas corpus petition are **DENIED**.

**IT IS SO ORDERED.**

/s/ Terence P. Kemp  
United States Magistrate Judge